

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

ADAM EGGERS,

Case No. 3:14-cv-443

Petitioner,

v.

Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

WARDEN, Lebanon Correctional Institution,

Respondent.

**ORDER OVERRULING EGGERS' OBJECTIONS (DOC. 16) TO THE
REPORT AND RECOMMENDATIONS; OVERRULING EGGERS'
OBJECTIONS (DOC. 19) TO THE SUPPLEMENTAL REPORT AND
RECOMMENDATIONS; ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATIONS (DOC. 15) AND SUPPLEMENTAL
REPORT AND RECOMMENDATIONS (DOC. 18) IN THEIR ENTIRETY;
AND TERMINATING THIS CASE**

This matter is before the Court on the Objections (Docs. 16, 19) filed by Petitioner Adam Eggers ("Egger") to the Magistrate Judge's Report and Recommendations (Doc. 15) and Supplemental Report and Recommendations (Doc. 18), both of which recommend that the Court dismiss Eggers' Petition for relief pursuant to 28 U.S.C. § 2254 (Doc. 1).

As required by 18 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has made a *de novo* review of the record in this case. Upon said review, the Court finds that Eggers' Objections (Doc. 16) to the Report and Recommendations (Doc. 15) and Objections (Doc. 19) to the Supplemental Report and Recommendations (Doc. 18) are not well taken and they are hereby **OVERRULED**. Wherefore, the Court **DISMISSES** Eggers' Petition (Doc. 1) and the Clerk is **ORDERED** to terminate this case.

Under Rule 11(a) of the Rules Governing § 2254 Cases, this Court is required to "issue or

deny a certificate of appealability when it enters a final order adverse to the applicant.” The Court agrees with the Magistrate Judge’s recommendation that “[r]easonable jurists could differ on whether Eggers’ statement during allocution is a sufficient protestations [sic] of innocence to require application of *Alford* to this case.” (Doc. 18, PAGEID 962.) Accordingly, Eggers shall be issued a certificate of appealability on that question. The Court denies Eggers a certificate of appealability as to all other issues addressed in the Report and Recommendations and Supplemental Report and Recommendations, as reasonable jurists would not disagree with the conclusions reached on those issues.

DONE and **ORDERED** in Dayton, Ohio, this Thursday, August 6, 2015.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE